



44 Montgomery Street
Suite 400
San Francisco, CA
94104-4606

415.989.5900
415.989.0932 Fax
www.cbmlaw.com

July 8, 2014

Gregg McLean Adam
Direct Dial: 415.743.2534
gadam@cbmlaw.com

VIA E-MAIL AND U.S. MAIL

Alex Gurza
Deputy City Manager
Office of the City Manager, City of San Jose
200 E Santa Clara St
San Jose, CA 95113
E-Mail: alex.gurza@sanjoseca.gov

Re: Proposed Ballot Language—Retirement Board Governance
File No.: 040507

Dear Alex:

I am responding to the June 20, 2014 draft of proposed ballot language for amendments to the City of San Jose Charter that was sent to the POA. Everyone appears to be colloquially referring to it as the Retirement Board Governance Ballot Measure.

This is my third letter on the subject. On May 14, I wrote to list all of the provisions of the ballot measure that the POA believed were within the scope of bargaining. I also made it clear that the POA was not waiving any of its rights under article 19 of our Memorandum of Agreement.

That letter invited a response from the City.

Then on June 3, I wrote again, stating that the POA (1) had not waived any meet and confer or Article 19 rights and (2) did not consider the so-called "stakeholder meetings" the City had arranged to be in satisfaction of any meet and confer obligations.

I again asked the City to respond to my May 14 letter with respect to its position on whether the changes were within the scope of bargaining.

The City still has not responded. Instead, by holding stakeholder meeting and unilaterally making changes to the ballot language, it appears to be creating the illusion of meeting and conferring.

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That won't work.

The June 20 draft differs from prior drafts, but the POA still objects to proposed sections 810(a) and (b). Giving the City the potential power to amend the current two retirement boards' structure and, separately, to dilute the current POA representation on the existing Police and Fire Retirement Board are matters within the scope of bargaining (see authority provided in May 14 letter).

Accordingly, the POA stands by its position that under Article 19 of our MOA, the City cannot seek to make the provisions discussed above applicable to the POA.

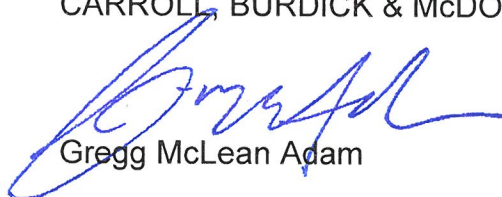
The POA has no problem with the remaining provisions in the June 20 draft, but suggests that the following language be added at the end of proposed section 810(d): "To the extent there is any conflict between this section and Article 17 of the California Constitution, then the Constitution will control."

Please advise the POA at your earliest opportunity that section 810(a) and (b) will not be applied to the Police and Fire Retirement Board.

Because the City has previously attempted to deny grievances due to the POA's alleged failure to file them at the earliest time after they became aware of a potential violation of the MOA, we will shortly file a grievance in relation to the above. Once we receive the assurance requested in the prior paragraph, however, we will withdraw the grievance.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

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Enclosures

cc: Mayor Chuck Reed
Members of the San Jose City Council
Ed Shikada, City Manager
Richard Doyle, City Attorney
Sean Kaldor
Police and Fire Retirement Board c/o Sean Kaldor
Harvey L. Leiderman, Esq., Reed Smith LLP
Jennifer Schembri, Deputy Director Employee Relations
Jim Unland, President, San Jose POA